

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

MARK BURGESS,

Plaintiff,

VS.

MICHAEL J. ASTRUE,

Defendant.

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CIVIL ACTION NO. C-10-371

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION  
ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

On April 21, 2011, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending as follows:

1) that the plaintiff's cross-motion for summary judgment, (D.E. 11), be granted with respect to the Administrative Law Judge's omission of vertigo from the list of plaintiff's severe impairments, with respect to the calculation of plaintiff's mental Residual Functional Capacity, with respect to her assessment of plaintiff's credibility, and with respect to her formulation of the hypothetical question;

2) that plaintiff's motion be denied with respect to his challenge to the Administrative Law Judge's definition of moderate limitations;

3) that defendant's motion for summary judgment, (D.E. 7, 8), be granted with respect to his claims that moderate limitations were properly defined and denied in all other respects; and

4) that this matter be remanded for further proceedings consistent with the memorandum and recommendation.

Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is ORDERED as follows:

1) the plaintiff's cross-motion for summary judgment, (D.E. 11), is granted with respect to the Administrative Law Judge's omission of vertigo from the list of plaintiff's severe impairments, with respect to the calculation of plaintiff's mental Residual Functional Capacity, with respect to her assessment of plaintiff's credibility, and with respect to her formulation of the hypothetical question;

2) plaintiff's motion is denied with respect to his challenge to the Administrative Law Judge's definition of moderate limitations;

3) defendant's motion for summary judgment, (D.E. 7, 8), is granted with respect to his claims that moderate limitations were properly defined and denied in all other respects; and

4) this matter is remanded for further proceedings consistent with the memorandum and recommendation.

SIGNED and ORDERED this 11th day of May, 2011.

A handwritten signature in black ink, reading "Janis Graham Jack", is written over a horizontal line.

Janis Graham Jack  
United States District Judge